



January 24, 2007

SENATE BILL No. 338

DIGEST OF SB 338 (Updated January 20, 2007 12:08 pm - DI ta)

Citations Affected: IC 6-3.5.

Synopsis: Distribution of local income tax. Provides that the amount of local income tax distributed to a county will be adjusted to include an amount withheld by an employer but not reported on an annual income tax return. (Current law provides that the amount distributed is based on the amount of tax received and reported on a taxpayer's annual income tax return.)

Effective: July 1, 2007.

Riegsecker

January 11, 2007, read first time and referred to Committee on Rules and Legislative Procedure.
January 23, 2007, amended; reassigned to Committee on Tax and Fiscal Policy.

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SB 338—LS 7126/DI 13+



January 24, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 338

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.5-1.1-9, AS AMENDED BY P.L.207-2005,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 9. (a) Revenue derived from the imposition of the
4 county adjusted gross income tax shall, in the manner prescribed by
5 this section, be distributed to the county that imposed it. The amount
6 to be distributed to a county during an ensuing calendar year equals the
7 amount of county adjusted gross income tax revenue that the
8 department, after reviewing the recommendation of the budget agency,
9 determines has been:
10 (1) received from that county for a taxable year ending before the
11 calendar year in which the determination is made; and
12 (2) reported on an annual return or amended return processed by
13 the department in the state fiscal year ending before July 1 of the
14 calendar year in which the determination is made;
15 as adjusted (as determined after review of the recommendation of the
16 budget agency) for refunds of county adjusted gross income tax made
17 in the state fiscal year.

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(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), **(g)** and ~~(g): (h)~~. The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to include an amount withheld by an employer but not included on an annual income tax return or an amended return.

~~(e)~~ **(f)** The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

~~(f)~~ **(g)** This subsection applies to a county that:

(1) initially imposes the county adjusted gross income tax; or

(2) increases the county adjusted income tax rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the

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certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

~~(g)~~ **(h)** The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 3.3 of this chapter beginning not later than the tenth month after the month in which additional revenue from the tax authorized under section 3.3 of this chapter is initially collected.

SECTION 2. IC 6-3.5-6-17, AS AMENDED BY P.L.207-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the budget agency, determines has been:

(1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), ~~(e)~~ and ~~(e)~~ **(f)**. The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the

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1 recommendation of the budget agency, determines that the reduced
 2 distribution is necessary to offset overpayments made in a calendar
 3 year before the calendar year of the distribution. The department, after
 4 reviewing the recommendation of the budget agency, may reduce the
 5 amount of the certified distribution over several calendar years so that
 6 any overpayments are offset over several years rather than in one (1)
 7 lump sum.

8 **(d) The department, after reviewing the recommendation of the**
 9 **budget agency, shall adjust the certified distribution of a county to**
 10 **include an amount withheld by an employer but not included on an**
 11 **annual income tax return or an amended return.**

12 ~~(d)~~ (e) The department, after reviewing the recommendation of the
 13 budget agency, shall adjust the certified distribution of a county to
 14 correct for any clerical or mathematical errors made in any previous
 15 certification under this section. The department, after reviewing the
 16 recommendation of the budget agency, may reduce the amount of the
 17 certified distribution over several calendar years so that any adjustment
 18 under this subsection is offset over several years rather than in one (1)
 19 lump sum.

20 ~~(e)~~ (f) This subsection applies to a county that:

- 21 (1) initially imposed the county option income tax; or
- 22 (2) increases the county option income tax rate;

23 under this chapter in the same calendar year in which the department
 24 makes a certification under this section. The department, after
 25 reviewing the recommendation of the budget agency, shall adjust the
 26 certified distribution of a county to provide for a distribution in the
 27 immediately following calendar year and in each calendar year
 28 thereafter. The department shall provide for a full transition to
 29 certification of distributions as provided in subsection (a)(1) through
 30 (a)(2) in the manner provided in subsection (c).

31 ~~(f)~~ (g) One-twelfth (1/12) of each adopting county's certified
 32 distribution for a calendar year shall be distributed from its account
 33 established under section 16 of this chapter to the appropriate county
 34 treasurer on the first day of each month of that calendar year.

35 ~~(g)~~ (h) Upon receipt, each monthly payment of a county's certified
 36 distribution shall be allocated among, distributed to, and used by the
 37 civil taxing units of the county as provided in sections 18 and 19 of this
 38 chapter.

39 ~~(h)~~ (i) All distributions from an account established under section
 40 16 of this chapter shall be made by warrants issued by the auditor of
 41 state to the treasurer of state ordering the appropriate payments.

42 SECTION 3. IC 6-3.5-7-11, AS AMENDED BY P.L.207-2005,

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SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the sum of the amount of county economic development income tax revenue that the department determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), (g) and ~~(g)~~. **(h)**. The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) After reviewing the recommendation of the budget agency, the department shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

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1 (e) The department, after reviewing the recommendation of the
 2 budget agency, shall adjust the certified distribution of a county to
 3 provide the county with the distribution required under section 16(b)
 4 of this chapter.

5 **(f) The department, after reviewing the recommendation of the**
 6 **budget agency, shall adjust the certified distribution of a county to**
 7 **include an amount withheld by an employer but not included on an**
 8 **annual income tax return or an amended return.**

9 ~~(f)~~ (g) The department, after reviewing the recommendation of the
 10 budget agency, shall adjust the certified distribution of a county to
 11 provide the county with the amount of any tax increase imposed under
 12 section 25 or 26 of this chapter to provide additional homestead credits
 13 as provided in those provisions.

14 ~~(g)~~ (h) This subsection applies to a county that:

15 (1) initially imposed the county economic development income
 16 tax; or

17 (2) increases the county economic development income rate;
 18 under this chapter in the same calendar year in which the department
 19 makes a certification under this section. The department, after
 20 reviewing the recommendation of the budget agency, shall adjust the
 21 certified distribution of a county to provide for a distribution in the
 22 immediately following calendar year and in each calendar year
 23 thereafter. The department shall provide for a full transition to
 24 certification of distributions as provided in subsection (b)(1) through
 25 (b)(2) in the manner provided in subsection (c).

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 338, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 338 as introduced.)

LONG, Chairperson

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